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Before the  
Federal Communications Commission  
Washington, D.C. 20554

DISPATCHED

In the Matter of )

Amendment of Section 73.202(b), )

Table of Allotments, )

FM Broadcast Stations. )

(Othello and Basin City, Washington) )

MB Docket No. 03-25

RM-10637

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: July 23, 2003****Released: July 24, 2003**

By the Assistant Chief, Audio Division:

1. The Audio Division issued a *Notice of Proposed Rulemaking* in response to a Petition for Rule Making filed by Wheeler Broadcasting, Inc. ("petitioner"), licensee of FM Station KZLN, Othello, Washington.<sup>1</sup> The *Notice* proposed to upgrade the license for FM Station KZLN from Channel 248C3 to Channel 248C2, and to change the community of interest from Othello to Basin City, Washington. Petitioner's request was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment. Petitioner filed comments supporting the changes proposed in the *Notice*. No other comments were received in response to the *Notice*.

2. Petitioner has established that Basin City is a community for purposes of our allotment policies. Basin City is a Census-designated place with a 2000 Census population of 968 persons. Petitioner has stated that Basin City has its own airfield, volunteer fire department, elementary school, public library, and health service facility. Petitioner further stated that many churches, restaurants, grocery stores, and other businesses are located in Basin City.

3. Neither Othello nor Basin City is located in an urbanized area. The existing 70 dBu signal for Channel 248C3 at Othello does not cover any portion of an urbanized area, nor does the 70 dBu contour of proposed Channel 248C2 at Basin City. Under the circumstances, no *Tuck* analysis is necessary to evaluate this change of community proposal.<sup>2</sup>

4. No white or gray areas (priorities one and two under the Commission's allotment priorities)<sup>3</sup> would result from adoption of the proposals advanced in this proceeding. If Channel 248C2 is reallocated to

<sup>1</sup> *Othello and Basin City, Washington*, 18 FCC Rcd 783 (2003).

<sup>2</sup> See *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988), and *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10,352 (1995).

<sup>3</sup> *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982), *recon. denied*, 56 RR 2d 448 (1983).

Basin City as requested, Othello will continue to receive local service from AM Station KRSC, which is licensed to Othello, Virginia. Retention of Channel 248C3 at Othello thus would constitute only a priority level four, while allotment of Channel 248C2 satisfies the standards for both priority levels two and three. Adoption of the proposal would provide service to an area currently receiving only one full-time service (gray area), thus meeting the standard for priority level two.<sup>4</sup> In addition, adoption of the proposal would provide a first local service to Basin City, satisfying the standard for priority level three. Upgrade of Channel 248C3 to 248C2 and reallocation of Channel 248C2 at Basin City therefore will result in a preferential arrangement of allotments, and will create a net gain of 3,748 square kilometers and 150,659 persons.<sup>5</sup>

5. The entire loss area of Channel 248C3 at Othello is completely covered by at least five other full-time reception services, and thus, it will remain a well-served area once FM Station KZLN moves to Basin City. A few sections of the gain area of proposed Channel 248C2 at Basin City presently receive less than five full-time services. Reallocation of Channel 248C2 at Basin City would provide service to the gray area described in paragraph 4, and also would provide service to these additional underserved areas: 329 persons in 414 square kilometers currently receiving two full-time services, and 154 persons in 198 square kilometers currently receiving three full-time services.<sup>6</sup>

6. For all of the foregoing reasons, we conclude that the public interest would be served by upgrading Channel 248C3 to Channel 248C2 and reallocating Channel 248C2 at Basin City, Washington. Channel 248C2 can be allotted to Basin City in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 7.2 kilometers (4.5 miles) north of Basin City at coordinates 46-39-26 NL and 119-10-23 WL.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b), 0.283, and 1.420(i) of the Commission's Rules, IT IS ORDERED, That effective September 8, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Community	Channel Number
Basin City, Washington	248C2
Othello, Washington	-----

<sup>4</sup> That area consists of 192 square kilometers and 287 persons. In addition, adoption of the proposal would provide a first service to an unpopulated area of three square kilometers.

<sup>5</sup> The loss area of Channel 248C3 at Othello has no population and covers 40 square kilometers. The gain area of channel 248C2 at Basin City contains 150,659 persons and covers 3,788 square kilometers.

<sup>6</sup> The proposal also would provide a fifth service to an unpopulated area of 54 square kilometers

8. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Wheeler Broadcasting, Inc., for FM Station KZLN, IS MODIFIED to specify operation on Channel 248C2 at Basin City, Washington, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in license BLH19920224KD, except the changes specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH19920224KD, except for the community and channel class as specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

(c) Pursuant to Commission Rule Section 1.1104(1)(k) and (3)(l), any party seeking a change in community of license of a TV or FM allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Wheeler Broadcasting, Inc., licensee of FM Station KZLN, is required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes specified above.

9. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this *Report and Order* to the following:

Barry Friedman  
Thompson Hine LLP  
1920 N Street, N.W., Suite 800  
Washington, D.C. 20036-1600  
(Counsel for Wheeler Broadcasting, Inc.)

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau